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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A-423-808]

Stainless Steel Plate in Coils from Belgium: Antidumping Duty Administrative Review, 2010-2011

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce

SUMMARY: On June 1, 2012, the Department of Commerce (the Department) published the preliminary results of the antidumping duty order on stainless steel plate in coils (steel plate) from Belgium.¹ This review covers one manufacturer/exporter of the subject merchandise: Aperam Stainless Belgium N.V. (AS Belgium). The period of review (POR) is May 1, 2010, through April 30, 2011.

Based on our analysis of the comments received, we have made changes to the Preliminary Results. For the final dumping weighted-average dumping margin, see the “Final Results of Review” section below.

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska at 202-482-8362; Office of AD/CVD Operations 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2012, the Department published in the Federal Register the Preliminary Results. We invited interested parties to comment on the Preliminary Results. On September

¹ See Stainless Steel Plate in Coils From Belgium: Notice of Preliminary Results of Antidumping Duty Administrative Review, 77 FR 32517 (June 1, 2012) (Preliminary Results).

17, 2012, the Department received case briefs from AS Belgium and the petitioners². On September 24, 2012, the Department received rebuttal briefs from AS Belgium and the petitioners. No party requested a hearing.

On July 29, 2012, the Department issued a memorandum extending the time period for issuing the final results of the administrative review from September 27, 2012, to November 28, 2012.³ As explained in the memorandum from the Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, through October 30, 2012. Thus, all deadlines in this segment of the proceeding have been extended by two days. The revised deadline for the final results of this review is now November 30, 2012.⁴

On October 22, 2012, the Department issued a post-preliminary analysis memorandum in which addressed the petitioners' targeted dumping allegations.⁵ On October 29, 2012, AS Belgium submitted its case brief on the post-preliminary analysis memorandum. On November 2, 2012, the petitioners submitted their rebuttal brief to AS Belgium's case brief.

Scope of the Order

The merchandise subject to the order is certain stainless steel plate in coils. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7219.11.00.30, 7219.11.00.60, 7219.12.00.02, 7219.12.00.05, 7219.12.00.06,

² The petitioners are Alleghany Ludlum Corporation, North American Stainless, United Auto Workers Local 3303, Zanesville Arco Independent Organization, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (AFL-CIO/CLC).

³ See Memorandum from Eric B. Greynolds, Program Manager, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations titled "Antidumping Duty Administrative Review: Stainless Steel Plate in Coils from Belgium. Extension of Deadline for Final Results," (June 29, 2012).

⁴ See Memorandum from Paul Piquado, Assistant Secretary for Import Administration regarding "Tolling of Administrative Deadline as Result of the Government Closure during Hurricane Sandy," dated October 31, 2012.

⁵ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Import Administration, 2010/2011 Review of the Antidumping Duty Orders on Stainless Steel Plate in Coils (Steel Plate) from Belgium: Post-Preliminary Analysis Memorandum, dated October 22, 2012 (Post-Preliminary Analysis).

7219.12.00.20, 7219.12.00.21, 7219.12.00.25, 7219.12.00.26, 7219.12.00.50, 7219.12.00.51, 7219.12.00.55, 7219.12.00.56, 7219.12.00.65, 7219.12.00.66, 7219.12.00.70, 7219.12.00.71, 7219.12.00.80, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, and 7220.90.00.60. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description, available in the order, remains dispositive.⁶

Analysis of Comments Received

All issues raised in the case briefs, rebuttal briefs, and post-preliminary comments by parties to this administrative review are addressed in the Issues and Decision Memorandum for the Final Results of the Administrative Review of Stainless Steel Plate in Coils from Belgium from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration (Decision Memorandum), dated concurrently with this notice and which is hereby adopted by this notice.

A list of the issues which parties raised is attached to this notice as Appendix I. The Decision Memorandum is a public document and is on file in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building, as well as electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on

⁶ See Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan, 64 FR 27756 (May 21, 1999).

the internet at <http://www.trade.gov/ia/>. The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received for AS Belgium, we have recalculated AS Belgium's weighted-average dumping margin. AS Belgium's adjustments are discussed in detail in the accompanying final calculation memorandum.⁷

Calculation of Constructed Value (CV) and Selling Expense Ratios

As discussed in the Preliminary Results, we based normal value (NV) for AS Belgium on CV because there were no above-cost sales for comparison purposes. Therefore, in accordance with section 773(e)(2)(B)(iii) of the Tariff Act of 1930, as amended (the Act), which provides for the use of "any reasonable method" to determine an amount for CV selling expenses and profit in the absence of actual data, we relied on the CV selling expense and profit ratio calculated for ASB in the 2007-2008 review, the most recently completed review in this case. See Preliminary Results, 77 FR at 62520.

The respondent and the petitioners raised several issues in their case and rebuttal briefs regarding the Department's use of the 2007-2008 CV selling expense and profit ratios. As discussed in detail in the Decision Memorandum, after considering the comments by interested parties, we have determined for these final results that the 2010 audited financial statements of Aperam S.A. (AS Belgium's parent) represent the most reasonable data available on the record for determining CV profit.

With respect to selling expenses for the final results the Department has determined that it would be inappropriate to rely on AS Belgium's 2007/2008 financial data for calculating a

⁷ See Memorandum to the File from Jolanta Lawska, Case Analyst entitled "Calculation Memorandum for Aperam Stainless Belgium N.V. (AS Belgium) for the Final Results of the 10th Administrative Review of Stainless Steel Plate in Coils from Belgium," dated November 30, 2012.

selling expense ratio. For the final results, the Department finds that it is more appropriate to use AS Belgium's information from the current review to derive the selling expense ratio. For further information, see the Decision Memorandum at Comment 3.

Bundled Sales

For these final results, the Department has not found that the record supports the petitioners' allegations of bundling. Because our analysis includes business-proprietary information, for a full discussion, see Memorandum to the File through Eric B. Greynolds from Jolanta Lawska, Case Analyst, entitled, "Calculation Memorandum for Aperam Stainless Belgium N.V. (AS Belgium) for the Final Results of the 10th Administrative Review of Stainless Steel Plate in Coils from Belgium," dated November 30, 2012.

Targeted Dumping

As noted in the Preliminary Results, the petitioners requested that the Department use an alternative comparison method, making average-to-transaction comparisons of normal value to constructed export price with respect to AS Belgium. The petitioners' request that the Department apply the average-to-transaction method for steel plate from Belgium in this administrative review was based on an allegation of targeted dumping. After publication of the Preliminary Results, the petitioners urged the Department to conduct the targeted-dumping analysis, as currently applied in antidumping investigations, in this administrative review to ascertain whether AS Belgium engaged in targeted dumping.⁸ The Department issued a post-preliminary analysis regarding targeted dumping on October 22, 2012.⁹

After consideration of the case and rebuttal briefs from interested parties, the Department has continued to address the petitioner's targeted dumping allegation in these final results. As a

⁸ See the Decision Memorandum at Comment 2.

⁹ See Post-Preliminary Analysis.

result of the application of its targeted dumping analysis, the Department continues to find a pattern of constructed export prices for comparable merchandise that differs significantly among certain purchasers, regions, and time periods. See the Decision Memorandum at Comment 2. We further find that the observed price differences cannot be taken into account using the average-to-average method. Specifically, the average-to-average methodology yields a weighted-average dumping margin that is meaningfully different than the weighted-average dumping calculated using the average-to-transaction methodology. As a result, the Department has used the average-to-transaction method to calculate AS Belgium's weighted-average dumping margin on steel plate from Belgium for the period May 1, 2010, through April 30, 2011. Using the average-to-transaction method we calculated a weighted-average dumping margin of 0.82 percent for AS Belgium.

Verification

The petitioners requested that the Department conduct verification of AS Belgium's home market and U.S. market sales databases in accordance with 19 CFR 351.307(b)(1)(iv). See the Decision Memorandum at Comment 3. The Department has conducted verification of AS Belgium in the most recently completed administrative review. Further, we find that no good cause for verification exists within the meaning of 19 CFR 351.307(b)(1)(iv). Therefore, in accordance with 19 CFR 351.307(b)(1), we determined not to verify AS Belgium in this administrative review. Id.

Final Results of Review

As a result of our review, we determined that the following weighted-average dumping margin exists for the period May 1, 2010, through April 30, 2011.

Manufacturer/Exporter	Weighted-Average Dumping Margin
Aperam Stainless Belgium N.V.	0.82%

Antidumping Duty Assessment

The Department shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. Since the weighted-average dumping margin is above de minimis, we calculated importer-specific ad valorem duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).¹⁰ We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review since the importer-specific assessment rate calculated in the final results of this review is above de minimis (i.e., 0.50 percent). Where either a respondent's weighted-average dumping margin is zero or de minimis, or an importer-specific assessment rate is zero or de minimis, we instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

¹⁰ In these final results, the Department applied the assessment rate calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012).

The Department clarified its “automatic assessment” regulation on May 6, 2003. See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see id.

Cash Deposit Requirements

The following antidumping duty deposit rates will be effective upon publication of the final results of this administrative review for all shipments of steel plate from Belgium entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Act: (1) for AS Belgium, the cash deposit rate will be the rate established in the final results of this review; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate will be 8.54 percent ad valorem, the “all-others” rate established in the LTFV investigation.¹¹ These deposit rates, when imposed, shall remain in effect until further notice.

¹¹ See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Belgium, 64 FR 15476 (March 31, 1999).

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties. See 19 CFR 351.402(f)(3).

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

These final results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

November 30, 2012 _____
Date

APPENDIX

List of Comments

Comment 1: Bundled Pricing

Comment 2: Targeted Dumping

Comment 3: Constructed Value (CV) Profit and Selling Expense Ratios

Comment 4: Verification

Comment 5: Customs Instructions

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